

Elliot Shields

From: Prince, Stephanie A. <Stephanie.Prince@CityofRochester.Gov>
Sent: Thursday, June 11, 2020 4:56 PM
To: Elliot Shields
Cc: Donald Thompson; David Roth; Roj, Justin C.; 'O'Neill, Kristin (DOS)'; Mitchell, Shani C.
Subject: RE: Appeal of Constructive Denial of RR20-01479
Attachments: Cheektowaga Police Report_Redacted.pdf; Depew Police Report_Redacted.pdf; Orchard Park Police Report_Redacted.pdf; Crime Report-Ofc. Ricotta-Metro PCS Burglary_Redacted.pdf; IAR-Inv. CarboneI_Redacted.pdf; IAR-Inv. Gotham_Redacted.pdf; IAR-Inv. Houlihan 2_Redacted.pdf; IAR-Inv. Houlihan_Redacted.pdf; IAR-Ofc. Frye.pdf; IAR-Ofc. Gonzalez_Redacted.pdf; IAR-Ofc. Harris.pdf; IAR-Ofc. Laurez.pdf; IAR-Ofc. Serenis.pdf; IAR-Ofc. Specksgoor_Redacted.pdf; IAR-Ofc. Talladay_Redacted.pdf; IAR-Sgt. Magri_Redacted.pdf; IAR-Sgt. Zenelovic_Redacted.pdf; Incident Report-Ofc. Vaughn_Redacted.pdf; Ofc. Santiago SRR_Redacted.pdf; Ofc. Talladay SRR_Redacted.pdf; Ofc. Vaughn SRR_Redacted.pdf

Elliot:

In response to your FOIL appeal, we have performed a diligent search and review for the categories of records referenced in your request related to the March 23, 2020 incident involving Daniel Prude. Attached hereto are all police reports and SRRs with redactions made pursuant to Public Officers Law 87(2)(b). These redactions have been made to prevent an unwarranted invasion of personal privacy and they include dates of birth, personal phone numbers, and residential street addresses. Two Mental Health Transport forms dated March 22, 2020 and March 23, 2020, respectively, are withheld pursuant to Mental Hygiene Law 33.13.

In addition to police reports, there are other records which will be sent to you via mail as everything is too large to send via email. As I am aware that you are working remotely, please provide an address for the City to mail records.

Regarding BWC footage, it is my understanding that you represent the Estate of Daniel Prude. The footage contains video of medical treatment by EMTs and later in a hospital. If you can provide an appropriate HIPAA release form so that we can release that footage without HIPAA-related redactions, please provide a signed, notarized form. If not, please advise so that we can instruct our digital media specialist to properly prepare the video.

An item-by-item response to your request is below, to avoid confusion.

- 1 - All BWC recordings – please see above.
- 2 - All 911 call recordings and transcripts: New York County Law 308(4), the City is prohibited from releasing any records of 911 calls, in whatever form they are kept.
- 3 - all communications by any RPD Officers and/or City employees related to this incident, including communications made via their vehicles' Mobile Data Computer (MDC) and/or the Computer Aided Dispatch (CAD) system: Please consider this a certification that, following a diligent search, no such records could be located.
- 4 - Copies of all CAD reports / print-outs related to the incident: Please consider this a certification that, following a diligent search, no such records could be located.
- 5 - all arrest reports: Two Mental Health Transport forms are withheld pursuant to Mental Hygiene Law 33.13. Please consider this a certification that, following a diligent search, no further records could be located.
- 6 - all subject resistance reports: all available reports are attached to this email.
- 7 - All "Rough Notes" or any other handwritten notes related to the incident: will be sent via mail, containing redactions pursuant to Public Officers Law 87(2)(b) to prevent an unwarranted invasion of personal privacy.

- 8 - All records related to Mr. Prude's death: all available reports are attached to this email. Otherwise, this request is unreasonably described as it does not specify a specific kind of document.
- 9 - Color copies of any photographs related to this incident: photos will be sent via mail.
- 10 - All witness statements / Supporting Depositions: will be sent via mail.
- 11 - All incident reports: all available reports are attached to this email.
- 12 - All other records containing factual data related to the incident: this request is unreasonably described as it does not specify a specific kind of document.

This correspondence constitutes my final decision regarding your request. If you disagree with this decision, you may seek judicial review of it pursuant to Article 78 of the Civil Practice Law and Rules. Your time to seek judicial review begins immediately.

Sincerely,

Timothy R. Curtin
Corporation Counsel

Via:



Stephanie A. Prince
Municipal Attorney
City of Rochester, New York - Law Department
City Hall - Room 400A
30 Church Street
Rochester, New York 14614
p: (585) 428-6752 / f: (585) 428-6950
Stephanie.Prince@CityofRochester.gov

From: Elliot Shields <eshields@rothandrothlaw.com>
Sent: Wednesday, June 10, 2020 3:39 PM
To: Prince, Stephanie A. <Stephanie.Prince@CityofRochester.Gov>
Cc: Donald Thompson <dmthompson@etksdefense.com>; David Roth <droth@rothandrothlaw.com>
Subject: RE: Appeal of Constructive Denial of RR20-01479

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Stephanie,

It was nice speaking with you on the phone yesterday. Thank you for agreeing to produce all the documents and reports requested in our FOIL request.

We do not consent to the City withholding the BWC videos until the Attorney General concludes its investigation. However, we do consent to the limited redaction of the video, solely for the purposes of redacting Mr. Prude's genitals. Even though you stated on the phone that any redactions would not take more than two hours, we do not consent to paying any money for the RPD to apply any redactions to the video.

Thus, please produce all the reports, documents and BWC videos requested in the FOIL request by tomorrow so we can avoid filing an Article 78.

Thank you,

Elliot

From: Prince, Stephanie A. <Stephanie.Prince@CityofRochester.Gov>
Sent: Tuesday, June 9, 2020 12:28 PM
To: Elliot Shields <eshields@rothandrothlaw.com>
Cc: Donald Thompson <dmthompson@etksdefense.com>
Subject: RE: Appeal of Constructive Denial of RR20-01479

Sounds good – I'm working remotely today, so I'll call you from my cell phone – it's a 469 area code.



Stephanie A. Prince
Municipal Attorney
City of Rochester, New York - Law Department
City Hall - Room 400A
30 Church Street
Rochester, New York 14614
p: (585) 428-6752 / f: (585) 428-6950
Stephanie.Prince@CityofRochester.gov

From: Elliot Shields <eshields@rothandrothlaw.com>
Sent: Tuesday, June 9, 2020 12:26 PM
To: Prince, Stephanie A. <Stephanie.Prince@CityofRochester.Gov>
Cc: Donald Thompson <dmthompson@etksdefense.com>
Subject: RE: Appeal of Constructive Denial of RR20-01479

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Around 2:30-3:00 pm should be good. I've got my office phone hooked up at home, you can call that or my cell 585-749-2089.

On Jun 9, 2020, 12:13 PM -0400, Prince, Stephanie A. <Stephanie.Prince@CityofRochester.Gov>, wrote:

Elliot,

Do you have time today to discuss this? I have additional information related to an ongoing investigation by the AG's office, who I understand has reached out to Don Thompson.

If you are free today let me know how to reach you and I'll give you a call.

Thanks,



Stephanie A. Prince

Municipal Attorney

City of Rochester, New York - Law Department

City Hall - Room 400A

30 Church Street

Rochester, New York 14614

p: (585) 428-6752 / f: (585) 428-6950

Stephanie.Prince@CityofRochester.gov

From: Elliot Shields <eshields@rothandrothlaw.com>

Sent: Thursday, May 28, 2020 9:06 PM

To: Prince, Stephanie A. <Stephanie.Prince@CityofRochester.Gov>; Mitchell, Shani C. <Shani.Mitchell@CityofRochester.Gov>

Cc: David Roth <droth@rothandrothlaw.com>; Donald Thompson <dmthompson@etksdefense.com>; Audra Roth <aroth@rothandrothlaw.com>

Subject: Appeal of Constructive Denial of RR20-01479

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Dear Stephanie and Shani,

I hope you are staying safe and healthy. I am writing to appeal the constructive denial of the attached FOIL request. It has been nearly two months and I have not received any communications related to this request.

Please immediately provide all the requested body worn camera recordings and other records requested.

Thank you,

Elliot

From: requestnoreply@cityofrochester.gov <requestnoreply@cityofrochester.gov>
Sent: Friday, April 3, 2020 10:30 AM
To: Elliot Shields <eshields@rothandrothlaw.com>
Subject: City of Rochester FOIL Request Submission - RR20-01479

Dear Elliot Shields,

Your Freedom of Information Law (FOIL) request for "BWC recording and all documentation of incident involving Daniel Prude" has been received by the City of Rochester.

Your request is currently being processed. The City will supply either the requested material or an updated response within approximately 20 business days. We will notify you in writing should additional time be needed.

This request has been assigned FOIL #RR20-01479. Please refer to this number when making any inquiries regarding this request.

[Click here](#) to check on the status of your request.

Sincerely,

Justin Roj
Records Access Officer

